The term "military law" has several different meanings:
- the law governing the armed forces: in this sense, an aspect of domestic law;
- the laws of war: in this sense, an aspect of international law, governed primarily by international conventions; and
- the law of national security, particularly as developed since 9/11: in this sense, an amorphous concept, imperfectly governed by a developing body of domestic law, affected by a body of international law of unclear application.

OVERVIEW

- C. Shanor and L. Hogue, National Security and Military Law (West Nutshell, 2003);
- N. McMurrer, "Military and Veterans Law," chp. 9 of Specialized Legal Research (Aspen, 2000-);
- Pertinent treatise material is generally classified under KF 7200 et seq.; the leading, official journals are Air Force Law Review, Army Lawyer, Naval Law Review, Military Law Review, and The Reporter (Air Force).

MILITARY LAW

Primary sources
- Constitutional basis
  
  "Congress shall have power... To make Rules for the Government and Regulation of the land and naval Forces" (Art. I., § 8, cl. 14).
  
  "The President shall be Commander in Chief of the Army and Navy of the United States" (Art. II, § 2).

- Statutes: 10 USC; particularly the Uniform Code of Military Justice(UCMJ; adopted in 1950), which has dual numbering: Article I et seq. corresponds to 10 USC § 801 et seq. Legislative history: Index and Legislative History, Uniform Code of Military Justice (1950; repr. 2000)

Schaffer Law Library’s Guide on Military Law


- **Courts-martial:** temporary tribunals convened to try offenses under UCMJ, consisting of designated military judge and at least five members (who may be officers or enlisted persons, depending on circumstances); no juries.
  - **Types:** summary (minor offenses); special (military equivalent of "misdemeanors"); general (serious offenses)
  - **Jurisdiction:** UCMJ Arts. 16-21

- **Courts of Criminal Appeals:** established for each service.
  - **Statute:** UCMJ, Art. 66
  - **Rules:** 32 CFR pt. 150
  - **Opinions:** some reported in West’s *Military Justice Reporter*; unreported (1951-) on Westlaw and Lexis.

- **U.S. Court of Appeals for the Armed Forces:** Article I court, created in 1950; reviewed by certiorari to U.S. Supreme Court (since 1983)
  - **Statute:** UCMJ, Art. 67
  - **Rules:** 10 USC, appendix; court website
  - **Opinions:** *West’s Military Justice Reporter* (1976-); Westlaw and Lexis

- **Reports, digests, and citators**
  - **Court-Martial Reports** (1951-75), 50 vols. plus citator and index; R. L. Tedrow, *Digest...* (1951-66)
  - **Military Law Reporter** (looseleaf, 1973-1992)
  - **West’s Military Justice Reporter** (1976-), plus digest
  - **Citators:** Keycite (Westlaw), Shepherds (Lexis)
JAG CORPS: Legal Divisions for each service, under Judge Advocates General.

- Air Force
- Army
- Coast Guard
- Navy
- Marine Corps

VETERANS LAW

- Statutes: 38 USC (Veterans' Benefits)
- Regulations: 38 CFR
- Agency: Department of Veterans' Affairs (VA)

Appeals from VA determinations

- Board of Veterans' Appeals
  - statute and regs: 38 USC §§ 7701 et seq.; 38 CFR pts. 19-20
  - VA General Counsel opinions (binding in BVA):

- U.S. Court of Appeals for Veterans' Claims (created 1988)
  - statute: 38 USC §§ 7251 et seq.
  - rules: 38 USC appendix;
  - opinions and digest: West's Veterans Appeals Reporter (1988-), plus digest.
  - citators: Keycite, Shepherds appeals: U.S. Court of Appeals for the Federal Circuit; cert.to Supreme Court
  - Practice guides
    - (a) Veterans' Benefits Manual (Lexis, 1992-)
    - (b) "Veterans and Veterans' Affairs," 33 Federal Procedure, L.Ed., chp. 79 (2004-)

LAWS OF WAR

The laws of war are part of international law, governed primarily by international conventions, secondarily by conventional usages of combatants. The central treaties are the Geneva Conventions of 1949, entered into under auspices of International Red Cross: 6 UST 3114 (land forces), 6 UST 3217 (sea forces), 6 UST 3316 (prisoners of war), 6 UST 3516 (protection of civilians)

Online texts and background:

Treatises:
  o D. Kennedy, Of War and Law (2006)

Military occupation and war crimes: the conventional principles (pre “war on terror”) are based on World War II and post-war experience. For an official Dept. of State statement of these principles, see 1 M. Whiteman, Digest of International Law 946-996 (military occupation) and 11 Id. 874-1025 (war crimes) (1973). A useful treatise:

NATIONAL SECURITY LAW: An amorphous and rapidly evolving mixture of international and domestic law, marked by imperfectly developed concepts and unclear lines of authority. Particularly difficult problems are the demarcation of the powers of the President, as commander-in-chief and chief executive, vis-a-vis Congress and the federal judiciary; and the application of the international law of war (particularly the Geneva Conventions) to situations involving “non-state combatants” never previously envisioned.

Places to Start
  • Franck, Thomas M., Foreign relations and national security law: cases, materials, and simulations
  • S. Dycus et al., National Security Law
  • Sievert, Ron, Cases and materials on U.S. law and national security
Schaffer Law Library’s Guide on Military Law

- Homeland Security Statutes (Govt. Institutes, 2003) conveniently collects federal statutes;
- “America's War Against Terrorism” (U. Michigan Documents Center)
- Security Law Brief Blog from Georgetown Law Center on National Security and the Law

Indexes and journals
- Legal Resources Index, using for both these subject headings:
  - National security—law and legislation—United States
  - Terrorists—legal status, laws, etc.—United States
  - War and emergency powers—United States

Presidential materials: Those issuances related to national security released to the public are available in the usual sources: Weekly Papers, Federal Register, etc.; many issuances are classified, in whole or in part. Most characteristic are “presidential directives” (a form of executive order issued with the approval of the National Security Council) and “national security directives.”
- Federation of American Scientists, Intelligence Resource Program
- G. Caldwell, Presidential Directives and Where to Find Them

Guantanamo detainees:
- For regulations governing military commissions, see 32 CFR pts. 9-18.